

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICHARD GREGORY, On Behalf of Himself)
and All Others Similarly Situated,)

Plaintiff,)

vs.)

CHIRON CORPORATION, HOWARD H.)
PIEN, JOHN A. LAMBERT and DAVID V.)
SMITH,)

Defendants.)

Case No. C-04-4293-VRW

CLASS ACTION

~~[PROPOSED]~~ CLASS DISTRIBUTION
ORDER

CTRM: 6
JUDGE: Hon. Vaughn R. Walker

[PROPOSED] CLASS DISTRIBUTION ORDER

CASE NO.: C-04-4293-VRW

DOCS\484048v1

1 **WHEREAS**, on January 6, 2009 this Court entered an Order, which among other things
2 approved the settlement of this action; and

3 **WHEREAS**, on March 11, 2009, this Court entered an Order Approving Class Action
4 Settlement, Plan of Allocation and Common Fund Fee and Expense Award approving the terms
5 of the Stipulation and Agreement of Settlement dated as of March 29, 2007 (the "Stipulation")
6 and the Plan of Allocation; and

7 **WHEREAS**, this Court has directed the parties to consummate the terms of the
8 Stipulation and the Plan of Allocation.

9 **NOW, THEREFORE**, upon reading and filing the Affidavit of Lara McDermott of
10 Gilardi & Co. LLC, the Claims Administrator, and the memorandum of law, and upon all prior
11 proceedings herein and after due deliberation, it is hereby

12 **ORDERED**, that the administrative determinations of the Claims Administrator
13 accepting the claims as indicated on the computer printout of accepted claims submitted with and
14 described in the Affidavit of Lara McDermott, including claims submitted after November 1,
15 2008 through and including September 1, 2009, be and the same hereby are approved, and said
16 claims are hereby accepted; and it is further

17 **ORDERED**, that the administrative determinations of the Claims Administrator rejecting
18 the claims as indicated on the computer printout of rejected claims submitted with and described
19 in the Affidavit of Lara McDermott be and the same hereby are approved, and said claims are
20 hereby rejected; and it is further

21 **ORDERED**, that Gilardi & Co. LLC be paid the sum of \$30,013.36 from the Settlement
22 Fund for the balance of its fees and expenses incurred and to be incurred in connection with
23 services performed and to be performed with respect to the settlement administration and
24 distribution of the Net Settlement Fund; and it is further

25 **ORDERED**, that the Certified Public Accounting firm of Eisner LLP, the tax
26 accountants for the Settlement Fund, be paid the sum of \$3,000 from the Settlement Fund for its
27 fees and expenses incurred and to be incurred in connection with services performed and to be
28

1 performed with respect to the taxation of the Settlement Fund herein for the year 2009; and it is
2 further

3 **ORDERED**, that the balance of the Settlement Fund after deducting the payments
4 previously allowed and set forth herein (the "Net Settlement Fund") shall be distributed to the
5 eligible claimants listed on the computer printout submitted with the Affidavit of Lara
6 McDermott in proportion to the Recognized Claim allocable to each such eligible claimant as
7 shown on such printout; and it is further

8 **ORDERED**, that the payments to be distributed to the Authorized Claimants shall bear
9 the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT
10 CASHED BY [DATE 180 DAYS AFTER ISSUE DATE]." Plaintiffs' Lead Counsel and the
11 Claims Administrator are authorized to take appropriate action to locate and or contact any
12 eligible claimant who has not cashed his, her or its distribution within said time; and it is further

13 **ORDERED**, that the costs of such services to locate and reissue payments to such
14 Authorized Claimants shall be payable from the unclaimed/un-cashed monies remaining in the
15 Net Settlement Fund; and it is further

16 **ORDERED**, that, as provided in the Plan of Allocation previously approved by the
17 Court, after one year after the initial distribution of the Net Settlement Fund to eligible claimants
18 and after reasonable and diligent efforts have been made to have the eligible claimants cash their
19 distributions, Plaintiffs' Lead Counsel are authorized to cause the Claims Administrator to
20 distribute any funds remaining in the Net Settlement Fund by reason of returned or unpaid
21 distributions or otherwise, to eligible claimants who have cashed their distributions, provided
22 that they would receive at least \$10.00 on such re-distribution based on their Recognized Claims,
23 after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for
24 such re-distribution. If after six months after such re-distribution any funds shall remain in the
25 Net Settlement Fund, then such balance shall be contributed to the Legal Aid Society of San
26 Mateo County, California.; and it is further

1 **ORDERED**, that all persons involved in the review, verification, calculation, tabulation,
2 or any other aspect of the processing of the claims submitted herein, or otherwise involved in the
3 administration or taxation of the Settlement Fund or the Net Settlement Fund are released and
4 discharged from any and all claims arising out of such involvement, and all Class Members,
5 whether or not they are to receive payment from the Net Settlement Fund are barred from
6 making any further claim against the Net Settlement Fund or the released persons beyond the
7 amount allocated to them pursuant to this Order, and it is further

8 **ORDERED**, that the Claims Administrator is hereby authorized to discard paper or hard
9 copies of the Proofs of Claim and supporting documents not less than one year after the initial
10 distribution of the Net Settlement Fund to the eligible claimants and electronic or magnetic
11 media data not less than three years after the initial distribution of the Net Settlement Fund to the
12 eligible claimants; and it is further

13 **ORDERED**, that this Court retain jurisdiction over any further application or matter
14 which may arise in connection with this Action; and it is further

15 **ORDERED**, that no claim submitted, and no deficient claim corrected, after September
16 1, 2009 may be accepted for any reason whatsoever.

17
18 Dated: October 1, 2009



HONORABLE VAUGHN R. WALKER
UNITED STATES DISTRICT JUDGE

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, employed in the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is One California Plaza, 300 South Grand Avenue, Suite 3900, Los Angeles, California 90071-3149.

2. That on September 29, 2009, declarant served the **[PROPOSED] CLASS DISTRIBUTION ORDER** by transmitting via e-filing the document listed above to the Case Management/Electronic Case filing system.

3. A true copy thereof will be deposited on September 30, 2009, in a United States mailbox at Los Angeles, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

4. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of September, 2009, at Los Angeles, California.


SHARON CHANG

SERVICE LIST

Richard Gregory v. Chiron Corporation, et al.
 USDC ~ San Francisco - Case No.C-04-4293-VRW

Counsel for Plaintiffs

Jeff S. Westerman
 MILBERG LLP
 One California Plaza
 300 S. Grand Avenue, Suite 3900
 Los Angeles, CA 90071
 Telephone: (213) 617-1200
 Facsimile: (213) 617-1975

George A. Bauer III
 Anita Kartalopoulos
 MILBERG LLP
 One Pennsylvania Plaza
 New York, NY 10119
 Telephone: (212) 594-5300
 Facsimile: (212) 868-1229

Kroll Heineman llc
 99 Wood Avenue South, Suite 307
 Iselin, NJ 08830
 Telephone: (732) 491-2100
 Facsimile: (732) 491-2120

Lionel Glancy
 Glancy Binkow & Goldberg LLP
 1801 Ave. of the Stars, Suite 311
 Los Angeles, CA 90067
 Telephone: (310) 201-9150
 Facsimile: (310) 201-9160

Brian P. Murray
 Murray, Frank & Sailer LLP
 275 Madison Avenue, Suite 801
 New York, NY 10016
 Telephone: (212) 682-1818
 Facsimile: (212) 682-1892

Vincent Giblin
 pitta & dreier llp
 499 Park Avenue
 15th Floor
 New York, New York 10022
 Telephone: (212) 652-3890
 Facsimile: (212) 652-3891

Counsel for Defendants

James E. Lyons
 Amy Park
 Skadden Arps Slate Meagher & Flom LLP
 Four Embarcadero Center, Suite 3800
 San Francisco, CA 94111
 Telephone: (415) 984-6400
 Facsimile: (415) 984-2698

Eric Waxman
 Skadden Arps Slate Meagher & Flom LLP
 300 S. Grand Avenue
 Los Angeles, CA 90071
 Telephone: (213) 687-5000
 Facsimile: (213) 687-5600

1 Paul K. Rowe
2 Rachelle Silverberg
3 Wachtell, Lipton, Rosen & Katz
4 51 West 52nd Street
5 New York, New York 10019
6 Telephone: (212) 403-1000
7 Facsimile: (212) 403-2000

8 ***Other Counsel***

9 Jeffrey R. Krinsk
10 FINKELSTEIN & KRINSK
11 501 W. Broadway, Suite 1250
12 San Diego, CA 92101-3593
13 Telephone: (619) 238-1333
14 Facsimile: (619) 238-5425